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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,425	09/08/2003	Timothy M. Souza	200310991-1	9035
22879	7590	06/11/2007	EXAMINER	
HEWLETT PACKARD COMPANY			KOCZO JR, MICHAEL	
P O BOX 272400, 3404 E. HARMONY ROAD			ART UNIT	PAPER NUMBER
INTELLECTUAL PROPERTY ADMINISTRATION			3746	
FORT COLLINS, CO 80527-2400				
MAIL DATE		DELIVERY MODE		
06/11/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/657,425	SOUZA, TIMOTHY M.	
	Examiner Michael Koczo, Jr.	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 June 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4, 6, 22-31, 33, 35, 37-39 and 41-59 is/are pending in the application.
- 4a) Of the above claim(s) 22-31 is/are withdrawn from consideration.
- 5) Claim(s) 41-58 is/are allowed.
- 6) Claim(s) 1-4, 6, 33, 35, 37-39 and 59 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

Applicant argues that alternative expressions may be permitted if they present no uncertainty or ambiguity. However, this is not the case here. The claims recite alternative and distinct embodiment, not alternative expressions.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 to 4, 6, 33 and 59 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1 to 4, 6, 33 and 59 are also rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites “at least one bias mechanism coupled to said one of the support and the first occlusion to resiliently bias said one of the support and the first occlusion towards a non-pumping position while the at least one bias mechanism is out of contact with the first occlusion surface.” This implies that the bias mechanism can be in contact with the first occlusion surface. There is no description in the application as originally filed of a bias mechanism which can be in contact with the first occlusion surface.

DETAILED ACTION

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's request for withdrawal of the finality of the previous Office action has been considered and deemed persuasive. The finality of the previous Office action is hereby withdrawn.

Claim Objections

Claim 1 is objected to because of the following informalities: in line 3, "e support" should read --one of the support--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1 to 4, 6, 33, 35, 37 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims recite distinct species in an alternative manner (for example, "one of the support and the first occlusion is movable towards the other of the support and the first occlusion", and "a drive system ...coupled to said one of the support and the first occlusion"). Applicant elected one species without traverse, yet these claims still contain language which is specific to the non-elected species. By not limiting the claims to the elected species, the scope of the claims cannot be clearly ascertained.

This lack of description would furthermore impose an undue burden on one of ordinary skill in the art to make and use the invention.

Allowable Subject Matter

Claims 41 to 58 are allowed.

Claims 1 to 4, 6, 33, 35, 37, 39 and 59 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st and/or 2nd paragraphs, set forth in this Office action.

Conclusion

Claims 22 to 31 stand withdrawn from further consideration as being drawn to species non-elected without traverse.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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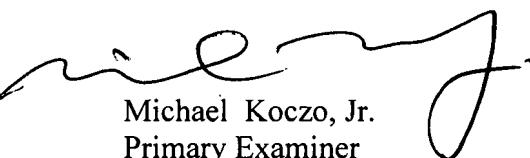
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Koczo, Jr. whose telephone number is 571-272-4830. The examiner can normally be reached on M-Th; 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached at 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Koczo, Jr.
Primary Examiner
Art Unit 3746